

August Court 1736 250

I am he unjustly detains him whereof fail not at your perile and have you then and there this writt Wiltwifft John Smith hath one of our Justices of our said Court the 20th day of March in the 2^d year of our Dominion in God 1735 . . . from this . . . Thomas Hayward Esq. which being read and heard the said Charles Jade prayeth Judgment of the writt aforesaid because he says that in the testametary Letters it is contained that Administration of all and Singular the goods and Chattels Rights and Credits of the said archibald Smith was committed to Robt Smith during the Minority of James Smith who was nominated Executor by the said archibald in his last will and testament and to no other person whatsoever wherefore for that the Letters testametary do not warrant the said James Smith to prosecute any action against the said Charles Jade and the said Charles prayeth Judgment of the writt aforesaid that the said writt may abate — Whereupon the aforesaid Charles Jade prayeth that the same James Smith to the plea of the same Charles may reply upon that day is given by the Court nowhere to the aforesaid James to reply to the aforesaid plea of the aforesaid Charles, and it is said to the same James by the Court here that he at the same day reply at which day came the aforesaid Charles by his attorney aforesaid and the aforesaid James altho' solemnly called cometh not nor to the plea of the aforesaid Charles replied nor is his writt aforesaid against the aforesaid Charles further prosecuted —

Therefore it is considered by the Court here that the aforesaid James Smith Executor of the said archibald Smith doth nothing by his writt and declaration aforesaid but that he and his pledges of Prosecuting to wit John Doe and Richard Roe are in mercy and that the aforesaid Charles Jade goe thereof without day &c.

¶ Joseph Macclesifer { Somerset f^t Thomas Lambden late of Somerset County Merchant —
f^t. Thomas Lambden . . . otherwise called Thomas Lambden Merchant of the County aforesaid was somme to answer unto Joseph Macclesifer sheriff of aplea that he render unto him eight thousand pounds of good sound merchantable leaf tobacco in cash which to him he oweth and unjustly detains &

And Whereupon the said Joseph by Geo: Douglas his attorney says that whereas the said Thomas Lambden the third day of September anno Domini seventeen hundred and thirty five at somerset County aforesaid within the Court of this Court by his certain writing obligatory which the said Joseph sealed with the seal of the said Thomas hereinto Court brings whose date is the day and year aforesaid acknowledge himself to be held and firmly bound to the said Joseph Macclesifer by the name of Joseph Macclesifer sheriff in the full and just sum of eight thousand pounds of good sound merchantable leaf tobacco in cash to be paid to the said sheriff his heirs & administrators or assigns — when he the said Thomas should afterwards be thereto required nevertheless the said Thomas the said eight thousand pounds of tobacco to the said Joseph hath not rendered but the same to him to render hitherto hath delayed —

(and)